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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,326	06/19/2000	Jerry C. Anderson	SCF-58	4039

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 03/28/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Keep in case

A3-6

Office Action Summary

Application No.
09/597,326

Applicant(s)
Jerry C. Anderson

Examiner
Ula Corinna Ruddock

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1771



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 19, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5 20) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-24, drawn to an insulation blanket, classified in class 52, subclass 408.
 - II. Claims 25-33, drawn to a barrier layer, classified in class 442, subclass 38.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as reinforcement for body armor and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Jason Johnston on January 15, 2002, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-24.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 25-33 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7, 9-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botsolas (US 4,054,710) in view of Anderson (US 6,253,777). Botsolas discloses a laminated insulation blanket (abstract). The insulating material can be constructed essentially of inorganic fibers, such as glass fibers (col 3, ln 3-11). The insulating material is bonded to a polyester resin film (col 2, ln 57-60). The film is also vapor permeable (col 4, ln 5-18). A reinforcing layer of open mesh scrim cloth composed of polyethylene terephthalate fibers (i.e.

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polyester) is also present in the laminate (col 2, ln 15 and col 5, ln 16-17). Botsolas discloses the claimed invention except for the teaching that there further comprises a second barrier layer adjacent to the insulation layer. Botsolas also fails to disclose that the yarns of the scrim are flame-retardant, textured yarns having a denier from about 70 to 1200, and that these yarns are formed by false-twist texturizing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed a second polyester film having a reinforcing scrim attached thereto on the other side of the insulating material of Botsolas, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In the present invention, one would have been motivated to do so in order to create a blanket with increased insulating properties.

Anderson (US 6,253,777) disclose a tent comprising flame resistant polyester fibers (abstract). The flame resistant polyester fibers are unified by false twist texturizing. Generally, each strand can have a denier between about 70 and 1200, and in one embodiment, the fibers can have a denier of about 300 (col 4, ln 15-29). It would have been obvious to have used the fibers of Anderson in the insulating blanket of Botsolas, motivated by the desire to obtain a composite insulation with increased flame retardance and additional durability.

In addition, the combination of Botsolas and Anderson fail to disclose that the scrim has a basis weight of less than about 1 ounce per square yard, or more specifically .25 to about .45 ounces per square yard or that the blanket has a thickness between about 1 to about 4 inches.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the scrim have a basis weight of less than 1 ounce per square yard, or more specifically .25 to about .45 ounces per square yard or to have made the blanket have a thickness between about 1 to about 4 inches, since it has been held that discovering an optimum *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the basis weight of the scrim and the thickness of the blanket motivated by the desire to obtain an insulating blanket with increased durability and strength.

7. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botsolas (US 4,054,710) and Anderson (US 6,253,777), as applied to claims 1-7, 9-18, and 20-24 above, and further in view of Geiger (US 4,452,848). Botsolas and Anderson disclose the claimed invention but fail to teach that the scrim has a leno weave.

Geiger disclose a composite roof membrane comprising an interior vapor barrier formed of a scrim reinforced film material (abstract). The scrim may be a complex leno weave (col 2, ln 20-22). The scrim can be polyester (claim 4). It would have been obvious to have employed Geiger's leno weaving process on the scrim of Botsolas and Anderson, motivated by the desire to obtain a scrim with the desired strength characteristics.

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock *UCR*
Patent Examiner
Art Unit 1771
March 22, 2002


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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